

## DRAFT OF FOLLOW UP LETTER TO COMPLAINT PARTIES

Date

Name

Address

Dear :

Thank you for meeting with me yesterday regarding the formal complaint \_\_\_\_\_ has filed against you/you filed against \_\_\_\_\_, alleging non-consensual sexual intercourse, Section 3.1 in the University's Sexual Misconduct Policy.

The charges in this complaint were the subject of a prior investigation and hearing, finding a violation of the University's Sexual Misconduct Policy occurred and respondent was/you were responsible for that violation. A later court proceeding has affected some aspects of that finding, so the University is affording the parties a complete new process, with some key changes to accommodate the issues identified in the court proceeding by the judge. One of the purposes of this letter is to describe those changes so you will have all of the information you need to meaningfully participate in the new investigation and hearing process.

The general policy and procedures, as a reminder, can be found at: [www.usm.edu/title-ix](http://www.usm.edu/title-ix). Those policies will apply, except as specifically changed by the procedures described in this letter.

When we met, I explained the formal process to you and gave you a copy of both the procedures for the resolution of allegations of sexual misconduct and the sexual misconduct policy. I also reviewed the changes to those procedures that are described in this letter. You may contact me once you've reviewed this information to get questions answered. We can do that in person or by phone; whichever is more convenient for you. You have my business card, which has my cell #, my office #, and my email address.

You also have access to a process advisor, \_\_\_\_\_, who you may reach at \_\_\_\_\_. (The complainant/respondent will have a separate process advisor.) S/he does not serve as an advocate for you. Rather, s/he advises you about the investigative procedures, how the process works, and how to best prepare for your meeting with the investigative panel. S/he will reach out to you shortly with contact information.

The three panelists who will review the complaint and conduct the investigative hearing are Steve Venette, April Broome and Erin Sessions. These are the people who will decide whether or not a violation of the University's Sexual Misconduct Policy occurred. The University is not aware of any conflict preventing any of these panelists from serving. You indicated you do not know any of these three persons and you had no objection to having them serve as panelists in this investigation.

When the panel meets, you will be given the opportunity to listen to the panel's questioning of the complainant/respondent and of the witnesses, and you will have the chance to pose questions to the complainant/respondent and to the witnesses if you so choose. The questions will be submitted to the panelists, and they will determine what questions are appropriate to ask of the person they are interviewing. Should the panel decline to ask a question submitted by you, they will inform you the question will not be asked and allow you to provide an explanation as to why the question is necessary. After hearing your explanation, the panel will decide whether to reverse or maintain its decision. You will, in short, get to pose questions via the panel to each participant. The complainant/respondent will be given the same opportunity.

We will give each of you access to a private meeting room from which you can listen to and observe the proceedings via video link. If you have a legal advisor or other support person, they will be allowed to observe the proceedings from your private meeting room as well. You'll be given an email address to which you can send your questions, although the panel will retain the right to determine when the questions are asked.

We will also have a digital recording of all the proceedings, access to which will be made available to you for your review upon request. You will not be permitted to make a copy of the recording.

The panel will provide you a written summary of evidence after all interviews have been held and give you an opportunity to review and respond to that summary. The panel will then deliberate and make its decision based on a preponderance of the evidence (more likely than not) standard. The panel will provide a written report of its findings and conclusions. The respondent/you will be considered not responsible unless the information supporting a finding of responsibility outweighs information supporting a finding of no responsibility. If the respondent is (you are) found responsible, the sanction could include a reprimand, suspension, expulsion, or other sanctions as provided under Section 15.1 of the *Procedures for the Resolution of Allegations of Sexual Misconduct*, found at <https://www.usm.edu/sexual-misconduct/procedures>. Both parties have a right to appeal the decision of the panel and/or the sanctions imposed, as provided in Section 17.0 of the *Procedures for the Resolution of Allegations of Sexual Misconduct*, found at the previously listed link.

Please send me any documents (or other evidence) you want the panel to consider, as well as witness name(s) and phone number(s) by the end of the work day on \_\_\_\_\_, 2018. Remember, the complainant/respondent will receive a list of your witnesses and a copy of all documents and evidence that you submit for the panel's review, just as you get a copy of his/her documents, evidence and witness list. Our office will contact the witnesses to arrange for their participation in the investigation. You are allowed to contact the witnesses, but you should not do anything (directly or indirectly) that might be interpreted as intimidating a witness or otherwise trying to discourage participation in the process.

The actual hearing is set for November 16, 2018; exact starting time to be determined. Once I know what time the panelists would like to start the hearing, I will be back in touch. The location for the hearing is \_\_\_\_\_. You are encouraged to have a support person with you throughout this process. Please refer to Section 12.0 of the *Procedures for the Resolution of Allegations of Sexual Misconduct*, found at the previously listed link.

If you have any disabilities registered with our Office of Disability Accommodation that you would like for me to know about heading into this process, please contact me.

Please remember you should have no contact with the complainant/respondent, nor should you try to communicate with her/him indirectly through other people or through social media.

Please be in touch with me if you have any questions about this information.

Sincerely,

Rebecca W. Malley, Ph.D.